IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

W.P.(C).No.1309 of 2007(S)

PETITIONER:-

RAM MOHAN, 14, KAIRALI NAGAR,
KAKKANAD, KOCHI-682 030.

BY ADV. SRI.MATHAI M PAIKADAY(SR.)
SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE

RESPONDENTS:-
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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE TRANSPORT COMMISSIONER,
TRANSPORT COMMISSIONERATE, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.T.B.HOOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON 23/01/2007 DELIVERED THE FOLLOWING:-

V.K.Bali,C.J. & M.Ramachandran,J.

W.P.(C).No.1309 of 2007-S

Dated, this the 23rd day of January, 2007

JUDGMENT

V.K.Bali,C.J.

Ram Mohan, who states himself to be a public spirited person and social activist associated with various service organisations, has filed this writ petition under Article 226 of the Constitution of India by way of public interest litigation seeking the following reliefs:

> "(i) a Writ of Mandamus or any other appropriate writ, order or direction commanding the respondents to implement the statutory provisions contained in Rule 16(2) and Rule 48 of the Central Motor Vehicles Rules, 1989 by issuing Driving Licenses and Certificate of Registration of Vehicles in Smart Cards and Smart Optical Cards as set out in Ext.P3 Government Notification;
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> (ii) a Writ of Mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to notify the implementation of Smart Card and Smart Optical Card project at various offices of the Motor Vehicles Department in the State with immediate effect with consequential orders thereto;
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> (iii) a Writ of Mandamus or any other appropriate

writ, order or direction commanding the respondents to take all necessary steps for the implementation of the project for the issuance of Driving Licence and Certificate of Registration in Smart Card and Smart Optical Card Format with immediate effect;

(iv) any other or further order as this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case".

The reliefs reproduced above are sought to rest on the pleadings that the general public of the State is exploited by the touts/middlemen operating in various Regional Transport/Sub Transport Offices in the State who maintain an unholy alliance with certain corrupt officials of the department for providing various services in connection with issuance of Driving Licences and Certificate of Registration of vehicles. Even though majority of the States in India have switched over to the electronic medium of Smart Card format for issuance of the above certificates, Kerala State did not take any positive steps to implement the statutory provisions contained in the Central Motor Vehicles Rules and has miserably failed to discharge their statutory powers which are coupled with statutory duties for the benefit of general public. The official apathy and indifference on

the part of the respondents have caused denial of justice and negation of fundamental rights guaranteed to the citizens under the Constitution of India.

2. The Court finds from the records of the case that for the reliefs aforesaid, prior in point of time the petitioner made representation dated 16th December, 2006 before the Chief Minister of Kerala, Thiruvananthapuram and during the course of argument, it is revealed that the same has not been attended or responded yet. The Court further finds from the records of the case that pursuant to notification issued by the Central Government in the year 2002 for the issuance of Smart Card and Smart Optical Card, Government of Kerala initiated steps in this regard in the year 2006. Photo copy of the notification issued by the Government of Kerala dated 19th June, 2006 has been annexed with the petition as Exhibit P3. It is the case of the petitioner that the Government had initiated steps for the award of contract to implement the above project in February, 2006. Tenders were invited from qualified bidders for the award of the contract and upon the completion of the procedures, the contract had been awarded in March, 2006 to a public sector company,

but even after the award of contract, no positive steps have been taken by the Government to implement the scheme in various Regional Transport Offices of the State.

3. The representation, Exhibit P5 dated 16th December, 2006, has not been attended or responded to yet. Meanwhile, as mentioned above, notification Exhibit P3 has already been issued by the Government pursuant to the notification earlier issued by the Central Government. In these circumstances, the counsel for the petitioner states that the Court may direct the concerned respondents to deal with Exhibit P5 representation and decide the same as expeditiously as possible.

4. Even though when the matter came up for hearing before us on 11.1.2007 we were inclined to issue directions so as to at least consider the representation Exhibit P5, but the learned Government Pleader sought an adjournment. Today again he seeks an adjournment. In view of the order we are inclined to pass, we are of the view that no further adjournment be necessitated.

5. Without going into the merits of the case, we only direct that the representation, Exhibit P5, be disposed of as

expeditiously as possible and preferably within six weeks from today. If the representation, Exhibit P5, may not have to be dealt with by the Chief Minister himself in exercise of his powers, the same shall be referred to the competent authority vested with powers and dispose of the same in accordance with law.

The writ petition is disposed of with the limited direction as mentioned above. Surely, before taking a decision on the representation Exhibit P5, all concerned may be heard in the matter.

V.K.Bali
Chief Justice

M.Ramachandran
Judge

vku/-